Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the matter of	)	
	)	
Implementation of the Subscriber	)	
Selection Changes Provisions of the	)	CC Docket No. 94-129
Telecommunications Act of 1996	)	
	)	
Policies and Rules Concerning	)	
Unauthorized Changes of Consumers	)	
Long Distance Carriers	)	
	)	

AMERITECH COMMENTS ON FURTHER NOTICE OF PROPOSED RULEMAKING

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I. INTRODUCTION AND SUMMARY

The Ameritech Operating Companies (Ameritech) respectfully submit the following comments on the Commission's Further Notice of Proposed Rulemaking (*Further Notice*) in the above-captioned matter. Ameritech is pleased that the Commission has finally issued rules implementing section 258 of the Telecommunications Act of 1996. Ameritech believes that these rules, coupled with some of the proposals in the *Further Notice*, should help to curb the growing slamming problem.

On the other hand, the Commission should reject, at least for now, proposals to (1) assign a Feature Group D carrier identification code (CIC) to each switchless reseller and (2) establish a third party administrator for preferred carrier (PC) changes and PC freezes. Requiring resellers to obtain their own CIC would force resellers to open a CIC in every central office in their serving

area. Of even greater concern, it could accelerate the exhaustion of available CICs. Given the tremendous costs associated with expanding the number of digits in a CIC, any proposal that hastens CIC exhaustion should be implemented only if absolutely necessary. There is no such necessity here. As Ameritech shows below, the unique issues raised by switchless resellers can be addressed without resorting to CIC assignments or even the alternative CIC suffix proposal.

Likewise, suggestions that PC administration functions be transferred to a third party administrator are, at best, premature. While the Commission finds the *concept* of a third party administrator appealing, it concedes that the ability of local exchange carriers (LECs) to act anticompetitively while executing carrier changes is limited.[1] Moreover, the costs of a third party administrator would be significant, even if that entity played no role in the actual implementation of a PC-change. Under the circumstances, the Commission should table this proposal unless and until experience demonstrates that it is not merely theoretically appealing, but cost-justified.

II. DISCUSSION

A. The Commission Should Require Slammers to Compensate Authorized Carriers For Lost Revenues.

In the *Second Report and Order*, the Commission revised its liability rules with an eye towards taking the profit out of slamming and providing appropriate compensation to consumers and authorized carriers who are the victim of a slam.

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[1] *Further Notice* at para. 183.

To these ends, the Commission held that: (1) consumers who have not paid charges billed by a slammer for calls placed during the first 30 days after the unauthorized change are absolved of liability for all such charges; (2) consumers who have paid such charges are eligible for a refund of any difference between the amount paid and the amount that would have been billed by the consumer's authorized carrier. The Commission envisions that consumers who have been slammed will report the slam to their authorized carrier which may then ask that the alleged slammer either produce proof of verification or remit all revenues paid by the consumer plus compensation for the authorized carrier's collection costs.

In the *Further Notice*, the Commission offers proposals to expand upon these rules. Specifically, the Commission proposes that, in those situations in which the subscriber has not paid charges to the unauthorized carrier, the authorized carrier be permitted to collect from the alleged slammer either: (a) all amounts billed by the slammer to the subscriber during the first 30 days after the unauthorized change; or (b) the amount the authorized carrier would have billed the subscriber during this 30-day period absent the unauthorized change. The Commission reasons that this proposal will further penalize slammers for their unlawful actions and enable the authorized carrier to obtain compensation for lost profits.

In those situations in which the subscriber paid the charges assessed by the slammer for calls placed during the first 30 days following the slam, the Commission proposes that the authorized carrier be permitted to collect from the slammer double the amount paid by the subscriber for that period. The

Commission envisions that the authorized carrier can then provide a full refund of all amounts paid to the subscriber, while recovering all lost profits (and then some) for itself.

Ameritech supports these proposals. As the Commission seems to recognize, the rights of consumers to be fully compensated in the event of a slam should not depend upon whether the consumer discovers the slam before paying her first bill. Even diligent consumers may fail to notice immediately that they were slammed. They have just as much a right to be made whole as does the consumer who refuses to pay the first bill. Likewise, the ability of authorized carriers to seek compensation for lost revenues should not hinge on whether the subscriber has paid her bill. Authorized carriers should have the right to seek damages if they so choose irrespective of whether the consumer has been absolved from liability for charges assessed by the slammer. Moreover, toughening the sanctions against slammers by permitting the authorized carrier to recover additional amounts from the slammer could bolster the Commission's efforts to deter slamming, all the more so if the Commission permits authorized carriers to recover all amounts actually billed by the slammer for calls placed during the first thirty days following the slam, rather than just the amounts the authorized carrier would have billed. Therefore, in those instances in which the subscriber has not paid her bill (or where payments have been credited and recoursed back to the slammer pursuant to the terms of a billing and collection agreement between the LEC and the slammer), Ameritech urges the Commission to permit authorized carriers to recover from the slammer all

amounts billed by the slammer for calls placed during the 30 days following the slam.

B. The Commission Should Not Require that Switchless Resellers Obtain a CIC. It Should Instead Require That IXCs Executing a PC Change to or from a Switchless Reseller or Between Two Switchless Resellers Send a Record Denoting Such Change to the LEC Serving the Customer.

The *Further Notice* also seeks comments on ways to address certain unique problems presented by switchless resellers. As the Commission points out, switchless resellers are not now required to obtain a unique CIC. Hence a PC change between a facilities-based carrier and one of its switchless resellers or between two of its switchless resellers does not require any change in CIC. Indeed, it does not require any processing by a LEC at all; the change is implemented entirely by the facilities-based interexchange carrier (IXC) serving the switchless reseller(s). This gives rise to two potential problems. First, it renders ineffective any slamming protection the customer has placed on her account with the LEC. Second, it can lead to confusion. Because the customer's LEC has no way of knowing whether or not the customer is using a switchless reseller, a bill generated by the LEC may erroneously identify the facilities-based carrier as the customer's presubscribed carrier. Moreover, LECs are unable to provide useful and reliable assistance to customers who contact them to complain that they have been slammed since the LEC has no record of any PC change.

The Commission seeks comment on three options for addressing these problems. First, it asks whether switchless resellers should be required to obtain

a CIC. Second, it asks whether the problems associated with switchless resellers might be addressed through the use of "pseudo-CICs" – *i.e.* suffixes appended to a CIC that could be used to identify switchless resellers. Third, the Commission seeks comment on whether facilities-based IXCs should be required to modify their systems so that, before processing a PC change involving a switchless reseller, they can determine whether the customer at issue has placed slamming protection on her account. The Commission also asks whether facilities-based IXCs should be required to modify their billing records and processes to allow identification of resellers on the consumer's bill.

Ameritech supports the third option, subject to one important *caveat* relating to the effective date of this requirement, which is discussed below. Specifically, the Commission should require facilities-based IXCs to transmit to a customer's LEC information that would enable that LEC to identify the customer's carrier in all cases. Rather, than mandating that resellers be assigned a CIC or pseudo-CIC, however, the Commission should direct that the identifying information be transmitted through a discrete field within the Customer Account Record Exchange (CARE) record that is not part of the CIC field. Using a discrete field within CARE, rather than the CIC field, would be far more efficient and cost effective. The Commission should further direct the industry, through the Order and Billing Forum (OBF), to modify existing national standards to implement the new field within the CARE record. In addition, the Commission should direct the Industry Numbering Committee to develop guidelines for assigning the numbers that would be used to identify the customer's carrier in the

CARE record. Those guidelines would be administered by the North American Numbering Plan Administrator.

Providing LECs the ability to identify the customer's carrier in all cases could enable LECs to address the concerns the Commission identifies in the Further Notice. For example, LECs could include in their bills a notation that would alert customers to any carrier change that has been made to their account during the previous billing cycle. LECs could also identify customers' carriers in all cases (whereas today they can only identify the CIC but cannot tell whether the customer is presubscribed to a switchless reseller). Equally important, if a customer contacts the LEC to complain of a slam, the LEC's customer service representative will have the information necessary to determine if a carrier change might have been implemented, identify the IXC to which the customer has been switched, and direct the customer to the carrier of record or the facilities-based carrier that has implemented the change.[2]

In addition, this information would enable LECs offering PC protection to inform the facilities-based IXC in those instances in which the customer involved in the PC change has placed PC protection on her account. LECs should generally be able to provide such information within 24 hours, thereby enabling the IXC to defer implementation of the PC change pending confirmation that the account is not protected. It would be up to the IXC, however, to make

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[2] Of course, the accuracy of this information depends upon the cooperation of facilities-based IXCs in doing their part to provide the necessary information to LECs. The Commission should therefore make clear that it will impose sanctions on any facilities-based IXC that fails to exercise proper diligence in complying with this requirement.

appropriate use of this information by rejecting PC changes that are inconsistent with a PC protection.

Directing the industry to develop national standards for using a discrete field within the CARE record to identify the new carrier of record in a carrier change and requiring IXCs to transmit such information to LECs would be preferable to any of the alternative options suggested in the *Further Notice*. Ameritech is concerned, in particular, that assigning CICs to switchless resellers would hasten the exhaustion of 4-digit CICs. The industry has just completed an arduous and expensive transition from 3-digit to 4-digit CICs. That transition took years to complete and required expensive modifications in provisioning systems, billing systems, switch software, and customer premises equipment. It also required corresponding changes in carrier access codes (CACs), which surely resulted in considerable customer confusion despite costly customer education efforts. Given the enormous expense and customer dislocation associated with CIC conversions, Ameritech believes that CICs should be assigned to switchless resellers only as a last resort – *i.e.*, only if alternative measures are clearly inadequate in addressing the slamming problems uniquely associated with switchless resellers.[3] That is not the case here. The alternative proposed by Ameritech should obviate any need for CIC assignments to switchless resellers.

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[3] Ameritech recognizes that it has previously urged the Commission to require switchless resellers to obtain their own CIC. *See* Ameritech Reply, CC Docket No. 94-129, Sept. 29, 1997 at 30. Even then, however, Ameritech expressed concern that "a reseller CIC assignment process could cause 4 digit CICs to exhaust prematurely." *Id.* Given the availability of a better alternative, Ameritech now believes that it would be a mistake to assign CICs to switchless resellers.

This approach is also preferable to the pseudo-CIC proposal. In fact, it offers the identical benefits to a pseudo-CIC proposal but would be far easier and cheaper to implement. That is because populating the CIC field with additional digits would require systems changes that could be avoided if the carrier identification is transmitted through a CARE field that is separate from the CIC field.

Ameritech's support of this approach, though, is qualified by one very important *caveat*. Even this third option would require significant modifications to LEC billing and other operational systems. Those modifications could potentially complicate LEC Year 2000 compliance efforts if they had to be implemented prior to or shortly after January 1, 2000. Therefore, in order to mitigate Year 2000 risks, the Commission should defer the effective date of this proposal until a reasonable period after January 1, 2000.[4]

C. The Commission Should Take a Common-Sense, Consumer-Friendly Approach to Third Party Verifications.

A third set of issues on which the Commission seeks comment relates to the third party verification (TPV) process. Specifically, the Commission seeks comment on whether: (1) the carrier's sales representative should be permitted to remain on the line during the verification of the sale; (2) it should permit an

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[4] Ameritech notes in this regard that, as part of its Year 2000 initiative, it is implementing an infrastructure stabilization policy, pursuant to which it will defer implementation of new network and information technology, and software applications into Ameritech's network and information technology infrastructure from as early as September 1999 through the early part of the Year 2000. *See* Letter from Thomas E. Richards, Executive Vice President-Communications and Information Products, Ameritech, to William Kennard, Chairman, FCC, March 17, 1999. Other companies are taking similar steps.

automated verification system that plays recorded questions and records the subscriber's answers, or, alternatively, a "live-scripted" automated verification system, which records scripted questions posed by the sales representative, along with the subscriber's answers to those questions; and (3) the types of information third party verifiers should be required or permitted to provide to subscribers. Ameritech addresses each of these issues, in turn, below.

1. Sales Representatives Should be Permitted To Remain on the Line During the Verification, But Should Be Prohibited from Participating Inappropriately In the Verification Process.

The Commission's inquiry into whether the carrier's sales representative should be permitted to remain on the line during the verification is prompted by concerns raised by NAAG that the subscriber might remain under the influence of the sales representative during the verification process. Ameritech believes that these concerns are overstated and do not warrant the blanket prohibition suggested by NAAG. While it is, of course, true that a sales representative theoretically could undermine the integrity of a TPV, there is no evidence that this kind of abuse actually occurs, much less that it is sufficiently commonplace to warrant the rule proposed by NAAG. Nor is there reason to believe that a third party verifier would record a sale as properly verified if the verification process was contaminated by the interference of the sales representative. Particularly given the Commission's emphasis in the *Second Report and Order* on its requirement that third party verifiers be truly independent and that they not be given incentives to approve PC-changes that are not properly verified, any prospect that this type of abuse could become commonplace seems remote.

While the risks of improper interference by sales representatives with the TPV process are thus entirely speculative, the benefits of their participation on the call can be significant. For one thing, as carriers expand into multiple markets, and the Commission correspondingly expands its verification requirements, the verification process is becoming more complex. Third party verifiers will increasingly be verifying, not a single PC change, but PC changes for multiple services. In addition, they may be called upon to verify PC protection. As the process itself becomes more involved, it becomes increasingly helpful to have a sales representative on the line to answer questions or simply to guide the customer through the verification process. Indeed, even apart from these changes to the verification process, there is value to permitting sales representatives to stay on the line during a verification. Many consumers think of questions about their service or their rate plan or the availability of premiums after they have authorized a PC change, and it is helpful to these consumers and their carriers if a sales representative is available to answer those questions. In fact, sometimes these questions are so important, that the consumer is likely to refuse to proceed with the verification without first obtaining answers to them. If a sales representative is not on the line, the verification and the sale will have to be aborted.

That scenario would undoubtedly be frustrating for consumers and carriers. Consumers expect carriers to "take care" of them throughout the entire sales process, including the verification. The Commission should not stand in the way unless there is clear reason to do so. Here, the reasons are not

compelling; the concerns raised by NAAG are entirely theoretical and can be addressed, in any event, through a far narrower rule. In particular, any concerns about improper interference with the verification process can be addressed by a rule that specifically prohibits such interference. Such a rule could make clear that sales representatives may not speak for subscribers during the verification process or, absent a "live-scripted" system (*see infra*), coopt the verifier in the performance of the verification. It would still leave room, though, for sales representatives to remain on the line for legitimate customer-care functions, such as explaining the process and answering any questions the customer may have about her service.

2. Automated Verification Systems, Including Live Scripted Systems,Should be Permitted

Ameritech strongly urges the Commission to permit automated verification systems, including live scripted systems. These systems are as reliable, if not more reliable, than other forms of TPV, and they can be considerably more cost-effective. For example, an automated system that plays recorded questions and tapes the answers to those questions offers two distinct advantages over TPV verification processes used today. First, recorded scripts effectively standardize the TPV process, thereby helping to ensure its integrity. Second, the tape recordings generated by this process can be extremely useful to address customer complaints of slamming. That recording can reveal, for example, whether the sale at issue really was verified; whether the sale was *properly* verified; and whether an authorized person provided the verification. This type of information is not generally available today with today's paper records.

The Commission should also permit "live-scripted" automated verifications. So long as these verifications are recorded, their reliability is fairly ensured. Indeed, the Commission has already recognized the value of audiotaping as a verification tool. For example, the Commission has held that a carrier should be able to meet its burden of demonstrating oral approval to use customer proprietary network information (CPNI) by audiotaping customer conversations.[5] If an audiotaped conversation between the carrier and its customer is sufficient proof of the customer's CPNI authorization, a TPV audiotaped by an independent third party should be sufficient proof of a customer's authorization of a PC-change, irrespective of who reads the scripted questions designed to elicit the verification.

Moreover, there may be reasons why carriers prefer live-scripted verifications over fully automated verifications. Some carriers may conclude that live-scripted verifications are more consumer-friendly and that customers, in general, prefer to talk to a person, not a machine. Others may find that automated verifications are more cost-effective. Still others may approach the issue on a customer-specific basis, concluding that some types of customers require special assistance that only a "live" service representative can offer. These are decisions that carriers ought to be able to make. Absent a showing that live-scripted verifications are inherently suspect – and Ameritech believes they are not - they should be permitted.

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[5] *Implementation of the Telecommunications Act of 1996, Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information,* CC Docket No. 96-115, FCC 98-27, released Feb. 26, 1998, at para. 21.

3. Ameritech Does Not Oppose Reasonable Content Requirements That Are Designed to Ensure that the TPV Process is Effective and Consumer-Friendly.

Automated verification systems that record the verification should obviate any need for more detailed script requirements or other requirements with respect to the third party verification process. Nevertheless, Ameritech does not oppose additional scripting of the third party verification process if that scripting will help to ensure that the TPV process is informative, accurate, and consumer-friendly.

On the other hand, Ameritech sees no need for rules governing the extent to which third party verifiers may or must provide additional information – *i.e.,* information not related to the verification itself. Whether or not third party verifiers provide such information is strictly a business decision that should be left to each carrier. Here again, carriers may differ in their view of what constitutes good customer service. Some carriers may wish to train their verifiers to answer frequently-asked questions, including questions about slamming protection, and avoid having to keep their sales representatives on the line. Others may prefer that all inquiries be handled by their own sales force. There is no evidence whatsoever before the Commission that would indicate a need for the Commission to preempt this decision.

D. The Commission Should Accept Electronic Signatures used in Internet Submissions Only if Those Signatures Are Accompanied by Additional Information, Such as Account Number, Social Security Number and/or Mother's Maiden Name.

Noting that many carriers have begun to use the Internet as a marketing tool, the Commission seeks comment on the circumstances, if any, in which a PC-change submitted over the Internet should be deemed verified. The Commission tentatively concludes that electronic signatures used in Internet submissions of carrier changes would not, in and of themselves, comply with the signature requirement for letters of agency (LOAs). Ameritech agrees. Equating an electronic signature to an actual signature on an LOA would seem to create too high a risk of fraud. It would not be difficult at all, for example, for an unscrupulous marketer to engage in widespread slamming simply by obtaining a list of customers and telephone numbers (just as they do today) and completing batches of electronic forms.

On the other hand, consumers can purchase all kinds of goods and services on the Internet, including computers, airline tickets, and even automobiles. It would be odd, to say the least, if a consumer could purchase a $15,000 automobile on the Internet, but could not order telephone service. The issue, therefore, ought not be whether Internet submissions should be deemed valid and verified, but under what circumstances. Ameritech believes that the *Further Notice* identifies some suitable conditions. First, the Commission should require that any Internet solicitation or application form comply with the content requirements applicable to letters of agency (LOAs), including the

requirement that the solicitation or application form separately identify the types of services of being offered and seek separate authorization for each service. Second, the Commission should adopt reasonable security measures. For example, since a subscriber can order a $4500 computer by entering a credit card number, there would appear to be little reason to prohibit subscribers from ordering phone service through the same mechanism. In this regard, an electronic signature accompanied by a valid credit card number should be deemed "verified." Likewise, personal information – in particular, account number, social security number and/or mother's maiden name – should provide reasonable (though not fool-proof) protection against slamming.

Ameritech does not here purport to identify all types of personal information that could suffice. For now, however, it believes that a rule that requires either a credit card number, or two out of the three types of personal information identified above (account number, social security number, and mother's maiden name) should be adopted. Equally important, the Commission should continue to monitor the extent to which these rules are successful in preventing slamming over the Internet and it should stand ready to adapt its requirements, as appropriate and necessary, as the industry gains experience with the benefits and pitfalls of Internet sales.

E. The Commission Should Allow Any Authorized Person to Order Services

The Commission also seeks comment on who should be deemed a "subscriber" for purposes of section 258 verification requirements. It states that

"allowing the named person on the bill to designate additional persons in the household to make telecommunications decisions could promote competition because carriers would be able to solicit more than one person in a household." It also notes that consumers would find such an arrangement convenient. Nevertheless, it expresses concern that such a proposal could lead to an increase in slamming. It questions, in particular, whether marketing carriers would be in a position to confirm that a particular individual is, in fact, authorized to make a change. It also suggests that carriers might submit changes requested by unauthorized persons and claim that it thought those persons were authorized.

Ameritech does not believe that these concerns warrant restricting authority to make PC changes to the person named on the bill. While it is true that a carrier cannot *know* whether the person requesting the PC change is authorized to do so, neither can a carrier *know* whether the person on the phone is, in fact, the party named on the bill. In a telemarketing context, the carrier must rely on the truthfulness of the person on the phone. If the carrier asks them whether they are authorized to request a PC change, and they say that they are, that should be enough. For this reason, Ameritech agrees with SBC that, for section 258 purposes, the term subscriber should include "any person, firm, partnership, corporation, or lawful entity that is authorized to order telecommunications services supplied by a telecommunications service provider[.]"

F. The Commission Should Require Facilities-Based LECs and All IXCs to Submit Bi-Annual Slamming Reports.

Another issue on which the Commission seeks comment is whether it should require "each carrier to submit to the Commission a report on the number of complaints of unauthorized changes in telecommunications providers that are submitted to the carrier by its subscribers." Ameritech believes that these reports could be extremely useful. First, they could be invaluable in enabling the Commission to identify carriers engaged in excessive slamming for appropriate remedial and punitive action. In addition, assuming these reports are available to the public, they might compel carriers to reduce slamming on their own to avoid public embarrassment or loss of goodwill.

Currently, data available to the Commission with respect to slamming is woefully inadequate. The vast majority of consumers who are slammed do not file a complaint with the FCC. To illustrate, the Commission reports that during the first eleven months of 1998, it received 19,769 slamming complaints. During this same period, Ameritech alone received 123,848 complaints of slamming by interexchange carriers. Commission data thus does not reveal the scope of the problem.

It is true, of course, as the Commission has previously recognized, that a consumer complaint is not, in and of itself, dispositive proof of a slam. Nevertheless, it is self-evident that an excessive number of complaints is strong evidence of excessive slamming. At a minimum, an excessive number of complaints directed at a particular carrier, or a sharp increase in the number of such complaints, indicate the need for an immediate investigation into that

carrier's sales and verification practices. Clearly, data regarding the number of complaints lodged against each carrier would be more useful than any data the Commission currently obtains with respect to slamming.

Providing data to the Commission on slamming complaints need not be burdensome. Ameritech already tracks slamming complaints received from consumers, and it believes that other carriers do so as well. Certainly, any carrier that does not track slamming complaints lodged against it ought to begin doing so, if only to monitor its own performance in this area and to know if and when corrective measures are warranted.

In light of the potentially significant benefits and minimal costs of this reporting requirement, Ameritech proposes that LECs and IXCs file with the Commission biannually a report indicating the number of slamming complaints that have been lodged against them, by type of service. To the extent these complaints were investigated, the report should indicate the resolution of such investigation. In addition, since most customers who are slammed by an IXC report the slam to their LEC, not the IXC, facilities-based LECs should include in their reports data on the number of slamming complaints received against other carriers, broken down by carrier.

G. The Commission Should Require Carriers Wishing to Provide Interstate Telecommunications Services to File a Registration Statement With the Commission, But it Must More Clearly Define the Purpose of This Registration.

The Commission also seeks comment on whether it should impose a registration requirement on carriers who wish to provide interstate

telecommunications services. The Commission suggests that such a requirement could help to prevent entry into the telecommunications marketplace by entities that are either unqualified or that have the intent to commit fraud, while giving the Commission a means of tracking and contacting carriers who may be engaged in slamming. The Commission proposes that the registration should contain, at a minimum, the carrier's business name(s); the names and addresses of all officers and principals; verification that such officers and principals have no prior history of committing fraud; and verification of the financial viability of the carrier.

The Commission also proposes to revoke or suspend, after appropriate notice and opportunity to respond, the operating authority of carriers that fail to file a registration statement or that provide false or misleading information in their registration. In addition, it tentatively concludes that a carrier has an affirmative duty to ascertain whether another carrier has filed a registration with the Commission prior to offering service to that carrier. It indicates its intent to facilitate the ability of a carrier to check the registration status of another carrier by, for example, publishing a list of carriers that have filed registrations.

Ameritech supports a registration requirement for the reasons cited by the Commission in the *Further Notice*.[6] Ameritech also urges the Commission to post on its web site the list of registered carriers.

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[6] The Commission might want to consider requiring resellers to include in their registration statement their identification number. This information might facilitate identification of resellers on LEC slamming reports, particularly if there is any variance among the reports with respect to the exact name of a particular reseller.

Ameritech does, however, have one problem with the Commission's proposal. Specifically, the Commission's proposal to require each carrier to verify that all of its officers and principals have no prior history of committing fraud seems both vague and lacking in purpose. Most importantly, the Commission does not explain what it proposes to do with this information. Is it the Commission's intent to prohibit a carrier from offering service if one of its principals or officers had a prior conviction of fraud? Is that appropriate? Would it matter whether the fraud bore any relation to the provision of telecommunications services? Does an officer or principal have a history of committing fraud if a carrier with which the officer or principal was previously associated committed fraud, but there is no evidence of the officer's personal involvement in such fraud? Is the Commission referring to criminal fraud only – *I.e.,* the commission of a felony? What constitutes a "principal" for these purposes? The Commission does not even begin to answer these and other questions raised by its proposal. While Ameritech certainly supports any effort to weed out companies that are likely to engage in fraud, Ameritech believes that the Commission needs to have a clearer sense of how it plans to go about achieving this goal before establishing requirements to that end. In this regard, a registration requirement might be useful in identifying recycled versions of carriers that have been shut down by the Commission. Such a requirement might also identify carriers (or their newly named successors) the Commission has been unable to track down in the face of prior slamming allegations. It is difficult to see, though, how the particular verification proposed - that no officer or principal has ever committed fraud of any

kind - is rationally related to either of these objectives. Ameritech believes that a better approach might be to require that registration statements list all officers and principals (more clearly defined), along with every telecommunications carrier with which each such person has previously been affiliated as officer or principal.

H. The Commission Should Be Skeptical of Proposals to Establish A Third Party Administrator for Preferred Carrier Changes and Preferred Carrier Freezes.

In addition to the proposals described above, the Commission seeks further comment "on the implementation by the industry of a comprehensive system in which an independent third party would administer carrier changes, verification, and preferred carrier freezes, as well as the dispute resolution functions" established in the *Second Report and Order.* The Commission notes that "the ability of the LECs to act anticompetitively while executing carrier changes is limited," but nevertheless finds that an independent third party administrator "may be useful in addressing concerns raised by the commenters about potential anticompetitive practices in this area."[7] The Commission further notes that "[m]ost of the commenters who support such a system ... are not specific about how such a system might work, nor do they offer concrete proposals for funding such an administrative scheme."[8] It seeks additional detail with respect to these matters from those who advocate a third party administrator.

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7 *Further Notice* ¶ 184.

Ameritech will comment in more detail on the costs and benefits of any specific proposal if and when offered. Ameritech is, however, highly skeptical that any such proposal would prove worthwhile. For one thing, this is a solution in search of a problem. There is absolutely no evidence that LECs could discriminate in their performance of PC-related duties. Ameritech and other LECs process thousands of PC-change orders every day - the vast majority of them within 24 hours. Including among these orders are intraLATA toll PC-changes. No carrier has ever suggested that these orders are handled in a discriminatory fashion. To the contrary, LECs have invested significant sums of money in developing fully automated PC processing systems which process PC change orders on a first-in, first-out basis and in a manner that is blind to the identity of the carrier issuing the change. That is why the Commission itself acknowledges, "the ability of LECs to act anticompetitively while executing carrier changes is limited."

Ameritech has also implemented PC protection systems that should limit any possibility of discrimination in its PC protection programs. For example, carriers may seek removal of PC protection by initiating a three-way call at the time of the sale. These three-way calls limit any opportunity for anticompetitive behavior because the representative of the carrier seeking the PC-change must remain on the line for the duration of the call and would thus necessarily be aware of and in a position to halt or report any inappropriate conduct. In addition, Ameritech permits customers to lift their PC protection by calling an automated

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[8] *Id.*

voice response unit – a system involving no interaction whatsoever with "live" Ameritech representatives. It also allows customers to notify Ameritech in writing if they so choose.[9] Assuming these or similar options are implemented by other

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[9] AT&T nevertheless has claimed, in a December 1998, *ex parte*, that a third party administrator is an imperative. *See* letter from James Spurlock, Government Affairs Director, AT&T, to Magalie Roman Salas, Secretary, FCC, Dec. 11, 1998. In an outlandish filing that is long on hyperbole but woefully short on accuracy, AT&T blames everything, including IXC slamming, on the LECs. For example, it characterizes Tel-Save's "automatic switch-back" policy as the response of a "struggling competitor[] [to] implement disparate and inconsistent 'work-around' solutions to the LEC domination of PIC issues." AT&T *Ex parte* at 4. That suggestion is, of course, absurd, since Tele-Save's switch-back policy was nothing more and nothing less than an attempt by Tel-Save to keep its customers from switching to another carrier.

AT&T also shamelessly distorts the facts and the findings in various state proceedings involving Ameritech and other LECs. It claims, for example, that Ameritech "as a matter of policy" markets intraLATA toll service during three-way calls, and that Ameritech Michigan sales representatives "were improperly using three-way verification calls to dissuade customers from leaving Ameritech Michigan's intraLATA service." These statements are blatantly false, and AT&T knows that to be the case. Ameritech has always prohibited its sales representatives from marketing intraLATA toll service during three-way calls. It has never authorized them to dissuade customers from lifting their slamming protection, nor has the Michigan PSC ever found otherwise. What it did find was that a very small percentage of sales representatives had conducted themselves inappropriately on three-way calls, by, most commonly, asking the customer whether they were interested in one or more vertical services at the completion of the call. Only one sales representative, on one call among tens of thousands of three-way calls handled by Ameritech, attempted to market intraLATA toll service to the customer – and it did so in direct violation of Ameritech policy.

AT&T also attempts to leave the impression that Ameritech "refused to process valid PIC changes" and that it ultimately shut down its PC protection program in Michigan to avoid doing so. Here are the facts: Ameritech refused to accept TPV by an IXC as authorization to remove slamming protection from an account, and when the Michigan PSC ordered it to do so, Ameritech suspended its PC protection program because it believes that order renders slamming protection illusory. Ameritech acted in this fashion to protect its customers from believing that they were protected from slamming when they were not. Its actions were not anticompetitive; they were commendable. Significantly, the Commission agrees with Ameritech that "[w]ere we to allow third-party verification of a carrier change to override a preferred carrier freeze, subscribers would gain no additional protection from the implementation of a preferred carrier freeze." *Second Report and Order* at para. 131.

AT&T argues further that the process of "having only LECs administer PICs is like forcing every customer who decides to buy a Ford to double-check with a GM dealer before the customer is allowed actually to buy a Ford." *Id.* at 3. This is a false analogy. No customer is forced to implement PC protection. Rather, they choose to do so to protect themselves from being slammed. Moreover, customers need not "double-check" with a LEC before lifting PC protection from an account; they have several options by which to convey their intentions, including options that require no interaction with a "live" person.

Finally, AT&T purports to shift blame for the slamming problem by suggesting that LECs "have no interest in helping AT&T prevent slams." *Id.* at 3. It is LECs, however, who typically incur the wrath of customers when customers are slammed: it is LECs that customers typically contact first, and it is LECs that customers frequently blame for implementing the PC change. These contacts consume significant resources. Ameritech alone is forced to expend tens of thousands of man-hours every year handling customer slamming complaints, a large proportion

LECs as well, the risk of anticompetitive administration of PC protection programs is remote, at best. Moreover, the Commission now requires all carriers, including LECs, to verify a customer's election to obtain slamming protection, reducing even further any potential for abuse in the implementation of slamming protection programs.

Nor are PC-related functions the only functions LECs perform on behalf of their competitors and the customers of their competitors. LECs routinely provide a host of services, including access services and local exchange services, to their competitors and to the customers of their competitors. And they have done so without discriminating or engaging in anticompetitive conduct. In the enhanced services context, for example, the Commission has noted that there is no evidence that any Bell operating company (BOC) has ever discriminated against a competing enhanced service provider.[10] In other contexts as well, basic nondiscrimination requirements have proved more than sufficient to ensure the integrity of the competitive process.

Given the lack of any basis for the Commission to conclude that a third party administrator is warranted, any move to implement such an option would be premature. Ameritech is particularly concerned because it does not believe that a third party administrator could be established without significant costs. These

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of which are directed against AT&T. That is, in fact, why Ameritech was forced to file a formal complaint against AT&T for its excessive slamming of Ameritech customers.

[10] *Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services,* CC Docket No. 95-20, FCC 95-48, released Feb. 21, 1995 at para. 29.

costs would ultimately fall on the shoulders of consumers, and they should not be imposed based on hypothetical risks or the appeal of a "concept."

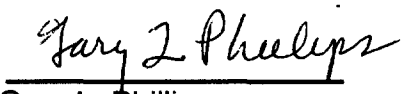
Of course, the actual cost of any proposal depends on its specifics, and, as the Commission points out, advocates of a third party administrator are not specific about how such a system would work. To the contrary, they have thus far indicated more of an interest in taking cheap shots at the LECs than in presenting serious proposals for consideration. One thing is clear, though. Even the more limited suggestions – *i.e.*, suggestions not involving a transfer of PC implementation functions – would entail significant costs. AT&T's suggestion, for example, that the Commission establish a third party administrator as middle-man in all PC transactions would require every telecommunications provider to establish electronic links to the designated third party administrator. The third party administrator would, in turn, have to establish electronic links to each and every facilities-based LEC. These links would have to be sized so that they could handle all PC-changes from all carriers purchasing Feature Group D access in the LEC's region. Moreover, the administrator would have to construct, operate, and maintain a database that could accommodate information about every single telephone line in the country, along with, of course, sufficient redundancy to address the possibility of system outages. While AT&T absurdly maintains that these systems could be established, operated, and maintained at no additional cost,[11] the costs would, in fact, be considerable. In addition, by creating an entirely new system and new bureaucracy through which every PC

[11] AT&T *ex parte* at 6.

change would have to flow, this proposal would increase the likelihood of PC-change errors.

In short, Ameritech is deeply skeptical that a third party administrator for PC changes would be cost justified. It will nevertheless carefully review any proposals that are offered in parties' comments and address those proposals in its reply.

Respectfully Submitted,



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